

A&O SHEARMAN

Pensions: what's new this week - November 25, 2024

25 November 2024

Welcome to your weekly update from the A&O Shearman pensions team, covering all the latest legal and regulatory developments in the world of workplace pensions.

Court of Appeal: judgment debtor could not be required to access pensions

The Court of Appeal has overturned a decision of the High Court that a member's pension could be accessed to satisfy debts he owed: *Manolete Partners plc v White*.

Mr White had been a director of a company which became insolvent. He was subject to a court judgment finding that, before the insolvency, he had made various payments in breach of the fiduciary duties he owed to the company (including buying himself a number of expensive cars and holidays). Mr White was ordered to repay around GBP1 million to the company but had not made any payments. The High Court case was concerned with whether Mr White's rights in his occupational pension scheme could be accessed to pay the amounts owed. Confirming earlier decisions in *Bacci v Green* and *Lindsay v O'Loughnane*, the High Court held that it was within the court's power to grant an injunction requiring Mr White to exercise his rights under his pension scheme rules to draw down his pension to enable him to satisfy his judgment debt.

The Court of Appeal has taken a different view, holding that such an order was contrary to section 91(2) of the Pensions Act 1995, which provides that 'no order can be made by any court the effect of which would be that he would be restrained from receiving' a pension under an occupational pension scheme. The High Court had held that its order did not 'restrain' Mr White from receiving the pension but rather ensured payment of the pension pot to the member; it was immaterial that the order was motivated by the objective of making the pot available to satisfy a judgment debt.

The member argued that this approach was artificial and contrary to the purpose of section 91, which was that entitlement and rights to future benefits under occupational pension schemes should be immune from creditor claims. The Court of Appeal agreed, noting that section 91(2) refers to an order 'the effect of which' would be that, on receipt, the member could not use the pension monies except to pay a judgment debt. It acknowledged that the underlying merits of the case were not on the side of the member, who had not paid the judgment debt against him and who would continue to benefit from the scheme established by the insolvent company for his benefit –

but the outcome in any such case could not depend on an individual judge's view of the merits of the case.

[Read the Court of Appeal decision.](#)

Pensions dashboards: updated standards

The Pensions Dashboards Programme has published an updated version of its reporting standards, setting out the requirements applicable to pension schemes and dashboard providers for generating, recording and reporting data. It has also published updated versions of its data standards and code of connection.

[Read the standards on the PDP website.](#)

Latest revaluation order

The latest revaluation order has been published, setting out the minimum required level of revaluation for pension rights (excluding Guaranteed Minimum Pensions) of people who were early leavers from final salary occupational pension schemes on or after January 1, 1986, where accrued rights have been left in the scheme. The Order also sets the minimum rate by which pensions in payment accrued in private sector defined benefit schemes must be increased for the following calendar year as 1.7%. The Order comes into effect on January 1, 2025.

[Read the revaluation order.](#)